

Michael L. Lunceford  
Vice-President, Corporate Affairs

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May 19, 1992

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MAY 26 1992

Office of the Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

Re: FCC 92-176 38385 CC Docket No. 92-90

Dear Ms. Secretary:

Enclosed are original comments plus nine copies as required by the Commission. Thus, we do wish for each Commissioner to receive a copy.

Yours truly,



Michael L. Lunceford, Vice President  
Corporate Affairs

MARY KAY COSMETICS, INC.

MLL;mh

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Dallas, Texas 75247-3794  
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**COMMENTS: FCC 92-176 38385 CC Docket No. 92-90**

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Federal Communications Commission  
Office of the Secretary

Mary Kay Cosmetics, on behalf of itself and its 240,000 Independent Beauty Consultants, wishes to comment on the matter of the Telephone Consumer Protection Act of 1991. In order for the Commission to better understand the perspective of the company and the Independent Beauty Consultants, the following background information is vital.

### BACKGROUND

Mary Kay Cosmetics, Inc., a Dallas, Texas headquartered international corporation, manufactures and through 240,000 independent contractors known as Beauty Consultants, sells quality skin care products to consumers. Mary Kay Independent Beauty Consultants, in the 50 states, purchase the products at wholesale directly from the company and in turn, sell those either through skin care classes similar to a Tupperware Party or at individual free facials held in the office or home of the consumer.

Ninety percent (90%) of these women do Mary Kay on a part-time basis for a short period of time in order to earn additional money to supplement family income and/or earnings from another job. They enter the business due to its ease of entry and low investment (\$95.00 for a Beauty Case), and leave once short-term financial goals are met. These women are the smallest of small businesses who occasionally use their home telephones. Burdensome regulations that either require registration with the FCC or the purchase of lists will have a chilling effect upon their entry into this otherwise simple, inexpensive method of doing business.

### COMMENTS

A national data base is a totally unworkable idea for Mary Kay Independent Beauty Consultants. They live in virtually every city in America, selling skin care products on their own account until their short-term financial goals are satisfied and then they leave. An Independent Beauty Consultant could be selling for as little as two quarters. The requirement that she pay for a data list would be a financial burden far exceeding her ability to bear it. The Florida costs of \$400 for a disk and \$250 for a paper edition are four times and two and a half times her cost to begin selling Mary Kay.

The company, on behalf of itself and the 240,000 Independent Beauty Consultants, appreciates the Commission's recognition of the negative and harmful influence overly broad and overly burdensome rules can have upon small businesses as well as multi-million businesses. This particularly is important for the independent contractors who sell Mary Kay products.

Certainly, a telephone prefix plan would be impractical. These small business people making telephone calls from their homes are scattered across the 70,000 cities, towns and villages in

the fifty states, enter and leave the business quickly; and thus they could not be assigned a specific prefix.

The Commission should bear in mind the substantial negative financial impact the purchase of a "Do Not Call" list would have upon the Independent Beauty Consultant. The purchase price of a list would have a chilling effect upon their entry into Mary Kay and substantially damage their modest financial goals. Also, a company specific do not call list is equally untenable.

Mary Kay Cosmetics and Independent Beauty Consultant agree there is substantial difference between auto dialer and live solicitations. Obviously, from the facts provided in the proposed rule, the \$435,000,000,000 of sales that result from unsolicited sales calls are an important part of the economy, welcomed by consumers. Also, obvious is the different level of reaction by the public to auto dialers (757 complaints) as opposed to live solicitations (74 complaints). It seems quite clear that consumers are very comfortable with live solicitations, especially if they fall within a time span of 9:00 a.m. to 9:00 p.m., which is endorsed by Mary Kay Cosmetics and its national trade association, the Direct Selling Association (DSA).

The company urges the Independent Beauty Consultants to follow this reasonable guideline, one that recognizes the privacy of one's home. There is no need to anger a prospective customer or a current customer by calling before 9:00 a.m. or after 9:00 p.m., unless asked to do so. Many cities and states, in cooperation with Mary Kay and the DSA, have adopted these hours.

### CONCLUSION

Mary Kay Cosmetics is vehemently opposed to a national data base. Nor does the company believe a company or industry specific data base is workable due to its method of doing business.

The Commission's recognition of the importance of the telephone to small business people, as embodied in the Independent Beauty Consultant who makes unintrusive live solicitations, is appreciated. Our company, in conjunction with the Direct Selling Association, always has championed responsible use of the telephone and respect for privacy of the home owner through reasonable hours of 9:00 a.m. - 9:00 p.m., and ready identification of themselves as Mary Kay Independent Beauty Consultants. We are doing this through self-regulation.

The purchase of lists of persons who do not wish to be called would be an immense financial burden upon a part-time Independent Beauty Consultant. Her small business, which only exists long enough for her to earn supplemental income, would be no longer an attractive opportunity to pursue.

Finally, while for some businesses a telephone prefix plan is an appropriate answer, it is not for Mary Kay Independent Beauty Consultants. It is an unworkable idea for the above stated reasons.